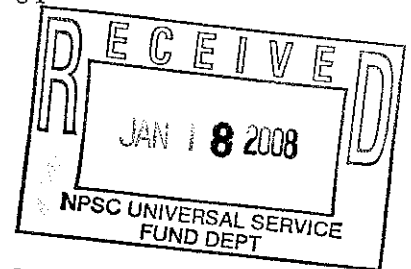


BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska Public Service Commission, on its own motion, seeking to investigate the use of expense caps in the earnings calculation for Nebraska universal service fund support.

Application No. NUSF-64



**COMMENTS OF UNITED TELEPHONE COMPANY OF
THE WEST d/b/a EMBARQ**

United Telephone Company of the West d/b/a Embarq respectfully submits these comments in response to the Commission's December 18, 2007 order in the above referenced docket. In the order, the Commission requests comments on the revised data and model, which the Commission proposes to use to determine if a company's reported expenses require a more in-depth review. Embarq appreciates the opportunity to provide comments in this important proceeding.

Most of the data errors that Embarq discovered in the previous data set appear to have been corrected. Embarq is still concerned, however, by the fact that several companies do not have five years of data in the data set. Embarq understands that, due to time constraints, the Commission may not yet have data for the years 2001 through 2005 for every Nebraska eligible telecommunications carrier ("NETC"). However, the fact that several companies do not have five observations in the data set could potentially skew the model and the output from that model. Previous revisions to the data set have resulted in significant changes to the model and the model's output.

Additional observations in the data set may potentially result in further significant changes. Until each NETC is equally represented with the same number of observations in the data set, it cannot be considered complete or representative, and therefore the final model.

In addition, Embarq takes this opportunity to comment on several broader policy issues surrounding expense caps. This docket was opened more than a year ago and has undergone several rounds of comments. However, during that time, the Commission has not articulated its reasons or goals for wanting to implement expense caps. Several other parties have made this same observation in past comments,¹ yet the Commission has not provided its reasons or goals. Without a clear understanding of the reasons and goals for the implementation of expense caps, it is difficult for parties to provide relevant comments on the data set used or the model developed. Embarq urges the Commission to articulate its reasons and goals for the development and implementation of expense caps before proceeding any further.

Embarq also continues to believe that expense caps are not needed and should not be implemented. Expenses for which NUSF support is available are already limited through the forward looking economic costs used in the Support Allocation Methodology ("SAM"), which calculates the amount of NUSF support each NETC is

¹ See *Comments of the Rural Companies*, filed April 6, 2007, page 2, *Comments of Citizens Telecommunications Company of Nebraska d/b/a Frontier Telecommunications of Nebraska*, filed April 6, 2007, page 3, *Comments of the Rural Independent Companies*, filed November 14, 2007, page 2, *Reply Comments of the Rural Independent Companies*, filed November 30, 2007, pages 1-2, *Reply Comments of the Rural Telecommunications Coalition of Nebraska*, filed November 30, 2007, pages 1-2.

eligible to receive. The forward-looking costs used in the SAM are the only costs for which an NETC receives support. In addition, NETCs do not receive the full amount of NUSF support as calculated by the SAM, due to limitations on the size of the fund, so not all of the forward looking costs as shown in the SAM are supported by the NUSF. Therefore there is no need to add yet another, redundant limitation that would cap the actual expense levels and possibly reduce NUSF support should the NETC exceed the "allowable" expense levels under the model.

Furthermore, Embarq reiterates that expense caps may create a disincentive for NETCs to invest in and maintain their networks. In NUSF-26, the Commission established the goals for the NUSF, one of which was that "[t]he Commission should encourage the development and maintenance of the telecommunications infrastructure and encourage the investment and deployment of new technologies."² In the current model (as issued by the Commission on December 18, 2007), the coefficient for plant investment is negative, meaning that for every dollar of investment that an NETC makes, the total "allowable" costs are *reduced*. This method mistakenly assumes that network investment will result in immediate gains in efficiency and therefore reduced cost. But that is not always the case. Expense reductions may not materialize until several years after the investment has been made, if at all. In addition, some investment and maintenance of the network will not result in reduced overall expenses. The NETC

² *In the Matter of the Nebraska Public Service Commission, on its own Motion, seeking to establish a long-term universal service Funding mechanism*, NUSF-26, Progression Order #2, issued August 27, 2002, paragraph 29.

should not be penalized with a reduced upper boundary of "allowable" costs as a result of investing in its network.

Likewise, the implementation of expense caps may incent NETCs to curtail expenditures in an effort to maintain expense levels below the total "allowable" costs as determined by the model. This curtailment could possibly have the effect of reducing service quality and/or customer service, which would only harm the Nebraska consumer. The Commission should not implement expense caps until it can show that there is a clear benefit to the consumer from the caps.

In conclusion, Embarq recommends that the Commission not implement expense caps as those caps may result in decreased investment in plant or curtailed expenditures on the part of NETCs attempting to stay under the total "allowable" expenses. Both alternatives may result in harm to the Nebraska consumer.

Respectfully submitted this 18th day of January 2008

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